

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/960,396 Confirmation No. : 5628
First Named Inventor : Stephen McCann
Filed : September 24, 2001
TC/A.U. : 2137
Examiner : Jeffrey L. Williams

Docket No. : 038819.50289US
Customer No. : 23911

Title : Access Authentication System

PETITION TO WITHDRAW FINALITY UNDER 37 C.F.R. § 1.181

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully submits that the Office Action issued on August 10, 2007, was made final prematurely, and accordingly, the finality of this Office Action should be withdrawn.

Regarding the propriety of final rejections on a second or subsequent action on the merits, M.P.E.P. § 706.07(a) states that such actions:

shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

It is respectfully submitted that the new ground of rejection in the Office Action issued on August 10, 2007, was not necessitated by Applicants'

amendment and was not based on information submitted in an Information Disclosure Statement filed during the period set forth in 37 C.F.R. § 1.97(c).

Initially, it is noted that Applicants have not filed Information Disclosure Statement during the period set forth in 37 C.F.R. § 1.97(c). Accordingly, the new grounds of rejection cannot be based upon information submitted during this period.

A non-final Office Action was issued on October 3, 2006, rejecting claims 1-9, 11-15 and 21 under 35 U.S.C. § 103(a) as being obvious in view of the combination of U.S. Patent No. 6,675,208 (Rai), U.S. Patent No. 6,477,644 (Turunen) and Dutch Patent No. 1007409 (Prins).

A Reply was filed on February 1, 2007, amending claims 1 to as follows:

1. (Currently Amended) An access authentication system for authenticating access to a first wireless local area network (W-LAN), the operator of which administers a visitor authentication, authorization and accounting (VAAA) server, wherein:

a user requesting visiting access to the first W-LAN, and having a mobile telephone, a valid cellular mobile account for the mobile telephone, a portable computing device with a browser, and a registration with a second W-LAN operator that administers a home authentication, authorization and accounting (HAAA) server, conveys to the VAAA server, by user intervention, identity information sufficient to enable said VAAA server to communicate with said HAAA server so as to authenticate the proposed connection;

said HAAA issues a personal
identification number (PIN);

the PIN is encoded and forwarded to the
user's mobile telephone and transferred to the browser
to authenticate the requested visiting access to the W-
LAN;

the cost of such access is billed to the
user's cellular mobile account; and

the requested access is achieved via the
user's browser.

A Restriction Requirement was issued on May 2, 2007, and Applicants' response filed on May 18, 2007, did not amend the claims.

The August 10, 2007, Office Action issued a new grounds of rejection, rejecting claims 1-9 and 21 under 35 U.S.C. § 103(a) as being obvious in view of the combination of Dutch Patent No. 1007409 (Prins), the article "Get Wireless: A Mobile Technology Spectrum by Agrawal et al. ("Agrawal") and U.S. Patent No. 6,512,754 to Feder et al. ("Feder").

Agrawal is relied upon as disclosing "that a user can employ the mobile phone and terminal/browser to access a wireless LAN." Feder is relied upon as disclosing "the details of registration and billing associated with mobile access." Accordingly, it is clear that Applicants' amendment of claim 1 to clarify that the valid cellular mobile account is for the mobile telephone did not necessitate the new grounds of rejection. Instead, it appears that the new grounds of rejection

was necessitated by the failure of the prior art relied upon in the Office Action issued on October 3, 2006, to disclose:

that a user can employ the mobile phone and terminal/browser to access a wireless LAN; and

the details of registration and billing associated with mobile access.

Because the new ground of rejection in the final Office Action issued on August 10, 2007, is not necessitated by Applicants amendments of the claims and is not based on information cited by the Applicants in an Information Disclosure Statement filed during the period set forth in 37 C.F.R. § 1.97(c), it is respectfully submitted that the finality of this Office Action is improper and should be withdrawn.

It is believed that no fees are due for this petition. However, if fees are required this paper should be considered as an authorization to charge Deposit Account No. 05-1323 (Docket #038819.50289US) for such fees.

Respectfully submitted,

August 15, 2007



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